

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CALVIN MCGOWAN,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:04-0996
)	Judge Trauger
DELL COMPUTER CORPORATION,)	Magistrate Judge Griffin
GREG KELLY, JAMES KERIAN, RON JARVIS,)	
KEN FORTE, and MICHELE BUTLER,)	
)	
Defendants.)	

ORDER

Pursuant to this court's Order entered August 17, 2006 (Docket No. 71), defense counsel has responded that it would violate his ethical duty to provide the home addresses of the individual defendants to the plaintiff voluntarily. He also refuses to accept service for the individual defendants because, apparently, the interests of the individual defendants and Dell Computer Corporation are not aligned, they will not share common defense counsel, their defenses will not be coordinated, and they are adverse to one another. (Docket No. 73 at 3; Docket No. 76 at 1) In a case of this sort, the court finds these assertions mildly surprising. At any rate, like Magistrate Judge Griffin, who apparently raised these same issues with defense counsel, the court will not require defense counsel to violate ethical obligations.

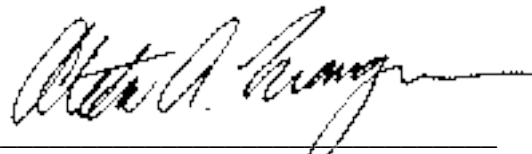
The plaintiff has apparently been relying upon simple requests made to defense counsel instead of formal discovery requests under the Federal Rules of Civil Procedure. The court will allow the plaintiff a brief period of time within which to attempt to utilize formal discovery processes in order to secure the information that he needs in order to serve the individual

defendants with process. It is therefore **ORDERED** that the plaintiff is granted an extension until October 16, 2006 within which to serve the individual defendants with process. If process is not served by that deadline, the plaintiff is forewarned that the claims against the individual defendants will be dismissed under Rule 4(m), FED.R.CIV.P.

The Report and Recommendation issued July 25, 2006 (Docket No. 69) is **MODIFIED** as set out herein.

It is so **ORDERED**.

Enter this 30th day of August 2006.

A handwritten signature in black ink, appearing to read 'Aleta A. Trauger', written over a horizontal line.

ALETA A. TRAUGER
U.S. District Judge